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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140220160-4160-01]

RIN 0648-BD99

Fisheries of the Northeastern United States; Northeast Skate Complex Fishery; Framework Adjustment 2

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: This rule proposes regulations to approve and implement measures in Framework Adjustment 2 to the Northeast Skate Complex Fishery Management Plan (FMP). The proposed action was developed by the New England Fishery Management Council to set specifications for the skate fisheries for the 2014 and 2015 fishing years, including a reduced annual catch limit and total allowable landings. Framework 2 would also modify reporting requirements for skate fishing vessels and seafood dealers to improve species-specific data collection. The action is necessary to update the Skate FMP to be consistent with the best available scientific information, and improve management of the skate fisheries. The proposed action is expected to help conserve skate stocks, while maintaining economic opportunities for the skate fisheries.

DATES: Comments must be received on or before [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Copies of the framework, including the Environmental Assessment and

Regulatory Impact Review (EA/RIR) and other supporting documents for the action are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The framework is also accessible via the Internet at: <http://www.nero.noaa.gov>.

You may submit comments, identified by NOAA-NMFS-2014-0037, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0037](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0037), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- Mail: NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope “Comments on Skate Framework 2.”

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF formats only.

FOR FURTHER INFORMATION CONTACT: Tobey Curtis, Fishery Policy Analyst, (978) 281-9273.

#### SUPPLEMENTARY INFORMATION:

##### Background

The New England Fishery Management Council is responsible for developing management measures for skate fisheries in the northeastern U.S. through the Northeast Skate Complex Fishery Management Plan (Skate FMP). Seven skate species are managed under the Skate FMP: Winter; little; thorny; barndoor; smooth; clearnose; and rosette. The Council's Scientific and Statistical Committee (SSC) reviews the best available information on the status of skate populations and makes recommendations on acceptable biological catch (ABC) for the skate complex (all seven species). This recommendation is then used as the basis for catch limits and other management measures for the skate fisheries.

The regulations implementing the Skate FMP at 50 CFR part 648, subpart O, outline the management procedures and measures for the skate fisheries. Specifications including the annual catch limit (ACL), annual catch target (ACT), total allowable landings (TALs) for the skate wing and bait fisheries, and possession limits may be specified for up to 2 years. The current specifications expire at the end of the 2013 fishing year (April 30, 2014); therefore, the Council was required to develop new specifications for the 2014 and 2015 fishing years. In addition to setting specifications, the Council desired to modify skate fishing vessel and dealer reporting requirements to improve species-specific skate landings data. Framework 2 was initiated to accomplish both of these objectives.

##### Proposed Specifications

In November 2013, the SSC reviewed updated information on the status of the seven species in the skate complex, including new research on discard mortality rates, and recommended an ABC of 35,479 mt for 2014 and 2015 (a 30-percent reduction from 2013). The recommended catch reduction is largely based on trawl survey biomass declines in the more abundant little and winter skate species. Winter skate was determined to be experiencing overfishing in 2013, and thorny skate (a prohibited species) is both overfished and experiencing overfishing.

The Council met in January 2014 to discuss the necessary changes to the specifications following the procedures set forth in Amendment 3 to the Skate FMP (75 FR 34049, June 16, 2010), and to consider recommendations from its Skate Oversight Committee and Skate Advisory Panel. Framework 2 was developed and submitted to NMFS to recommend these specifications and recommendations. The Council has recommended, and NMFS is proposing in this rule, the following specifications for the skate fisheries for the 2014-2015 fishing years:

1. Skate ABC and annual catch limit (ACL) of 35,479 mt;
2. Annual catch target (ACT) of 26,609 mt;
3. Total allowable landings (TAL) of 16,385 mt (the skate wing fishery is allocated 66.5 percent of the TAL (10,896 mt) and the skate bait fishery is allocated 33.5 percent of the TAL (5,489 mt, divided into three seasons according to the regulations at § 648.322));
4. Status quo skate wing possession limits, as defined in § 648.322(b): 2,600 lb (1,179 kg) wing weight per trip for Season I (May 1 through August 31), and 4,100 lb (1,860 kg) wing weight per trip for Season II (September 1 through April 30) for vessels fishing on a Northeast Multispecies, Monkfish, or Scallop day-at-sea. The Northeast Multispecies Category-B day-at-sea possession limit remains at 220 lb (100 kg) wing weight per trip,

and the non-day-at-sea incidental possession limit remains at 500 lb (227 kg) wing weight per trip; and,

5. Status quo skate bait possession limit, as defined in § 648.322(c): 25,000 lb (11,340 kg) whole weight per trip for vessels carrying a valid Skate Bait Letter of Authorization.

The Council did not recommend any changes to the existing in-season incidental possession limit trigger points (85 percent in the wing fishery, 90 percent in the bait fishery). While these reductions in catch limits are expected to address the current overfishing status for winter skates (not overfished), the Council intends to develop a new skate action during 2014 to address overfishing and rebuild overfished thorny skates.

#### Vessel and Dealer Reporting Requirements

A long-term goal of the Skate FMP has been to improve species-specific skate catch information. However, currently, the vast majority of skate landings are simply reported as “unclassified skate,” which hinders single-species assessment and management efforts. The proposed changes include removing “unclassified skate” as a valid reporting option for vessels and dealers, and removing the smaller rosette, smooth, and little skates as valid reporting options in the skate wing fishery (i.e., species that do not reach a marketable size for the wing fishery).

Skate bait vessels and dealers would be required to report landings by species from among the following options: Winter skate; little skate; little/winter skate (unknown mix of these two species); barndoor skate; smooth skate; thorny skate; clearnose skate; or rosette skate. Skate wing vessels and dealers would be required to report landings by species from among these options: Winter skate; barndoor skate; thorny skate; or clearnose skate. Based upon NMFS port sampling data, over 98 percent of skate wing fishery landings are composed of winter skate, so it is expected that most of the “unclassified” skate wing landings would translate

into “winter skate” landings. Similarly, approximately 90 percent of skate bait landings are composed of little skate, with the remainder being largely comprised of juvenile winter skates. Therefore, “unclassified” landings in the bait fishery are expected to translate into “little skate” or “little/winter skate” landings. While in most circumstances it is unlawful to retain, land, or possess barndoor, thorny, and smooth skates, vessels and fish dealers must still report the unauthorized landing of these species when they occur. Outreach, education, and continued monitoring of landings by NMFS would help aid fishing vessels and dealers with this transition.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with the Skate FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for the purpose of E.O. 12866.

The Council prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA consists of Framework 2, the EA for Framework 2, and this preamble to the proposed rule. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section of the preamble and in the SUMMARY of this proposed rule. A copy of this analysis is available from the Councils (see ADDRESSES).

This action does not introduce any new reporting, recordkeeping, or other compliance requirements. This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

#### Description and Estimate of Number of Small Entities to Which the Rule Would Apply

This rule will impact fishing vessels, including commercial fishing entities. In 2012, there were 2,265 vessels that held an open access skate permit. However, not all of those vessels are active participants in the fishery. If two or more vessels have identical owners, these vessels should be considered to be part of the same firm, because they may have the same owners. According to the Small Business Administration (SBA), firms are classified as finfish or shellfish firms based on the activity which they derive the most revenue. Using the \$5M cutoff for shellfish firms (NAICS 114112) and the \$19M cutoff for finfish firms (NAICS 114111), there are 526 active fishing firms, of which 519 are small entities and 7 are large entities. On average, for small entities, skate is responsible for a small fraction of landings, and active participants derive a small share of gross receipts from the skate fishery (approximately 34 percent in 2011 and 2012 fishing years came from skate revenue).

#### Economic Impacts of the Proposed Action Compared to Significant Non-Selected Alternatives

During 2012, total revenues from skate landings were valued at approximately \$6.6 million. The 2012 data is representative of an average-landings skate year, whereas the 2011 data is representative of a recent high-landings skate year. Compared to the no action alternative, the proposed reduction in the skate TALs (30 percent) could reduce potential annual skate revenues. However, fishing year 2012 actual skate landings were below the proposed TAL, suggesting that it is unlikely that potential revenue losses would be directly commensurate with the TAL reduction. If skate landings in 2014 and 2015 are comparable to those observed in

2012, then the skate fishery may experience no loss of skate revenue, but may actually come closer to fully harvesting the available amount of landings.

The preferred (status quo) skate wing and bait possession limit alternatives were selected because they have a high likelihood of providing a consistent rate of skate landings for the entire fishing year, while likely achieving 100 percent of the respective TALs. Alternatives with lower possession limits (1,500 lb (680 kg)/2,400 lb (1,089 kg) in the wing fishery; 20,000 lb (9,072 kg) in the bait fishery) would increase the likelihood of not achieving the proposed TAL by the end of the year, resulting in losses of potential skate revenues. One alternative for a higher skate wing possession limit (5,000 lb (2,268 kg)) was not preferred because it was projected to reach the in-season incidental possession limit trigger point (85 percent of the TAL) early in the fishing year, effectively closing the directed skate wing fishery for part of the year, which would result in distributional shifts of benefits from late-season harvesters to summer harvesters.

Changes to skate vessel and dealer reporting requirements are administrative measures, and the preferred and no action alternatives have no associated economic impacts. Vessels and dealers are already required to report the skates that they catch/purchase.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 14, 2014

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Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.



For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 648 as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 648.7, revise paragraphs (a)(1)(iii), and (b)(1)(iii) to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

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(a) \* \* \*

(1) \* \* \*

(iii) Dealer reporting requirements for skates. In addition to the requirements under paragraph (a)(1)(i) of this section, dealers shall report the species of skates received. Species of skates received as bait shall be identified according to the following categories: Winter skate, little skate, little/winter skate, barndoor skate, smooth skate, thorny skate, clearnose skate, and rosette skate. Species of skates received as wings (or other product forms not used for bait) shall be identified according to the following categories: Winter skate, barndoor skate, thorny skate, and clearnose skate. NMFS will provide dealers with a skate species identification guide.

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(b) \* \* \*

(1) \* \* \*

(iii) Vessel reporting requirements for skates. In addition to the requirements under paragraph (b)(1)(i) of this section, the owner or operator of any vessel issued a skate permit shall report the species of all skates landed. Species of skates landed for bait shall be identified

according to the following categories: Winter skate, little skate, little/winter skate, barndoor skate, smooth skate, thorny skate, clearnose skate, and rosette skate. Species of skates landed as wings (or other product forms not used for bait) shall be identified according to the following categories: Winter skate, barndoor skate, thorny skate, and clearnose skate. Discards of skates shall be reported according to two size classes, large skates (greater than or equal to 23 inches (58.42 cm) in total length) and small skates (less than 23 inches (58.42 cm) in total length). All other vessel reporting requirements remain unchanged. NMFS will provide vessel owners or operators that intend to land skates with a skate identification guide to assist in this data collection program.

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[FR Doc. 2014-11664 Filed 05/20/2014 at 8:45 am; Publication Date: 05/21/2014]